

## CHAPTER 8:14

### STATE LIABILITIES ACT

*Acts 7/1932, 42/1976 (s. 5), 28/1984 (s. 2), 3/1990; R.G.N. 217/1970.*

#### **AN ACT to impose liabilities upon the State in respect of acts of its employees.**

[Date of commencement: 13th May, 1932.]

#### **1 Short title**

This Act may be cited as the State Liabilities Act [*Chapter 8:14*].

#### **2 Claims against the State cognizable in any competent court**

Any claim against the State which would, if that claim had arisen against a private person, be the ground of an action in any competent court, shall be cognizable by any such court, whether the claim arises or has arisen out of any contract lawfully entered into on behalf of the State or out of any wrong committed by any officer or employee of the State acting in his capacity and within the scope of his authority as such officer or employee, as the case may be.

#### **3 Proceedings to be taken against Minister of department concerned**

In any action or other proceedings which are instituted by virtue of section *two*, the plaintiff, the applicant or the petitioner, as the case may be, may make the Minister to whom the headship of the Ministry or department concerned has been assigned nominal defendant or respondent:

Provided that, where the headship of the Ministry or department concerned has been assigned to a Vice-President, he may be made nominal defendant or respondent.

#### **4 Citation of President, a Vice President, Minister or public official in proceedings**

Whenever the President or a Vice-President or any Minister, Deputy Minister or public official is cited in any action or other proceedings in his official capacity he shall be cited by his official title and not by name.

#### **5 No execution or attachment to be issued, but nominal defendant or respondent authorized to pay the sum awarded**

(1) In subsection (3)—

“judgment debtor” means a person who, under any order of any court, is liable to pay any money to any other person, and “judgment creditor” shall be construed accordingly.

(2) Subject to this section, no execution or attachment or process in the nature thereof shall be issued against the defendant or respondent in any action or proceedings referred to in section *two* or against any property of the State, but the nominal defendant or respondent may cause to be paid out of the Consolidated Revenue Fund such sum of money as may, by a judgment or order of the court, be awarded to the plaintiff, the applicant or the petitioner, as the case may be.

(3) Where any money is payable by the State to a judgment debtor and the judgment creditor would, if the money so payable were money payable by a private person, be entitled to obtain from any court an order, known as a garnishee order, for the attachment of the money, such court may, subject to any other enactment and in accordance with any rules of court, make a garnishee order restraining the judgment debtor from receiving the money and directing payment thereof to the judgment creditor or any other person specified in the order.

#### **6 Notice to be given of intention to institute proceedings against State and officials in respect of certain claims**

(1) Subject to this Act, no legal proceedings in respect of any claim for—

(a) money, whether arising out of contract, delict or otherwise; or

(b) the delivery or release of any goods;

and whether or not joined with or made as an alternative to any other claim, shall be instituted against—

(i) the State; or

(ii) the President, a Vice-President or any Minister or Deputy Minister in his official capacity; or

(iii) any officer or employee of the State in his official capacity;

unless notice in writing of the intention to bring the claim has been served in accordance with subsection (2) at least sixty days before the institution of the proceedings.

(2) A notice referred to in subsection (1)—

(a) shall be given to each person upon whom the process relating to the claim is required to be served; and

(b) shall set out the grounds of the claim; and

(c) where the claim arises out of goods sold and delivered or services rendered, shall specify the date and place of the sale or rendering of the services and shall have attached copies of any relevant invoice and requisition, where available; and

(d) where the claim is against or in respect of an act or omission of any officer or employee of the State, shall specify the name and official post, rank or number and place of employment or station of the officer or employee, if known.

(3) The court before which any proceedings referred to in subsection (1) are brought may condone any failure to comply with that subsection where the court is satisfied that there has been substantial compliance therewith or that the failure will not unduly prejudice the defendant.

(4) For the purposes of this section, legal proceedings shall be deemed to be instituted by the service of any process, including a notice of application to court and any other document by which legal proceedings are commenced, in which the claim concerned is made.

## **7 Exemptions**

Section *six* shall not apply to—

- (a) a claim in which the debt concerned has been admitted to the claimant, expressly and in writing; or
- (b) a counter-claim; or
- (c) a claim which the court or a judge or magistrate, on application, has determined to be urgent; or
- (d) a claim in respect of which the defendant has waived, expressly and in writing, the notice required by section *six*.

## **8 Court not to take notice of failure to comply with section 6**

No court of its own motion shall take notice of any failure to comply with section *six*.

## **9 Provisions of other laws relating to prescription of claims etc. not affected**

Sections *two* and *six* shall not be construed as affecting the operation of any other law which—

- (a) limits the liability of—
  - (i) the State; or
  - (ii) the President, a Vice-President or any Minister or Deputy Minister; or
  - (iii) any officer or employee of the State; or
- (b) prescribes a specific period within which a claim in respect of any liability referred to in paragraph (a) shall be made; or
- (c) imposes conditions on the institution of any proceedings;

and accordingly sections *two* and *six* shall be construed as being complementary and supplementary to any such law.